

Notice of Allowability

Application No.

10/656,759

Examiner

Kimberly S Smith

Applicant(s)

STERNITZKY, JEFFREY

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the application filed 09/08/2003.
2. ☒ The allowed claim(s) is/are 1-20.
3. ☒ The drawings filed on 08 September 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 09/08/2003
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance: the independent claims of the current invention are directed to a bird feeder having a hollow container including a horizontally rectangular aperture along the entire width of the lower portion of the front side of the container with the container including a sloped bottom. The container is attached to a flat mounting plate comprising a transverse rectangular aperture aligned with the horizontal rectangular aperture in the front of the hollow container with the mounting plate including a plurality of mounting brackets. The interior of the housing includes a ramp located on the right side of the housing and a flat horizontal divider (including a transverse aperture) connected to the left side of the ramp at one end and the left side of the container at the other. The device further includes an annular cap located near the right side of the housing, a conveyor, a motor assembly, electrical wiring and a timing assembly. The prior art teaches a number of the claimed components such as: Pitchford, Jr., (US 4,665,862, cited with the applicant's IDS) teaches a hopper with a conveyor, timing mechanism, battery, etc.; Ramirez (US 5,299,529) teaches the bottom of a hopper being sloped keypad, a display including an LED and a battery pack; Gal et al., (US Patent 6,367,417) including a transparent level indicator with the hopper. However, the prior art, neither alone nor in combination, is able to render obvious the claimed structural components of the interior of the housing in the precise manner they are claimed, including the ramp and the divider mechanism in conjunction with the remainder of the housing structure or the alignment of the apertures. As such, the independent claims and those depending therefrom are considered to be allowable.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Choi (US 6,487,987), Gal et al. (US 6,367,417), Kuo (US 6,135,056), Bloom et al. (US 5,771,838), Ramirez (US 5,299,529), Reyes (US 2,699,752).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly S Smith whose telephone number is 703-308-8515. The examiner can normally be reached on Monday thru Friday 10:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T Jordan can be reached on 703-306-4159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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MICHAEL J. CARONE
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